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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Joshua Landon Klipp,

10 Plaintiff,

11 v.

12 Unknown Archilido, et al.,

13 Defendants.  
14

No. CV-17-00282-TUC-RM

**ORDER**

15 In an Order filed on December 18, 2017, this Court dismissed Plaintiff's First  
16 Amended Complaint for failure to state a claim and gave Plaintiff 30 days to file a second  
17 amended complaint. (Doc. 10.) The Court later twice extended the deadline for filing a  
18 second amended complaint. (Doc. 13, 15.) The extended deadline expired on April 2,  
19 2018. (*See* Doc. 15.) Plaintiff did not file a second amended complaint. On April 16,  
20 2018, the Clerk of Court entered a judgment of dismissal and closed this case. (Doc. 16.)

21 In August 2018, Plaintiff filed two letters. (Docs. 17, 18.) The Court noted that  
22 any request for a court order must be made by motion and that it is improper to mail  
23 letters in lieu of motions. (Doc. 19.) The Court further found that, even if it were to  
24 construe Plaintiff's letters as motions to reopen under Federal Rule of Civil Procedure 60,  
25 Plaintiff had not identified any valid basis for reopening this case and had not explained  
26 why he had failed to timely file a second amended complaint. (*Id.*)

27 On February 17, 2022, Plaintiff mailed another letter, which was docketed in this  
28

1 case as a Motion to Reopen. (Doc. 20.)<sup>1</sup> In the letter, Plaintiff alleges that he is still  
 2 receiving inadequate medical care, he asks to re-file or add to his complaint, and he states  
 3 that this case was dismissed due to retaliation by his unit team. (*Id.*)

4 The Court may, on “motion and just terms,” relieve a party from a final judgment  
 5 for the following reasons:

- 6 (1) mistake, inadvertence, surprise, or excusable neglect;
- 7 (2) newly discovered evidence that, with reasonable diligence, could not have been  
 discovered in time to move for a new trial under Rule 59(b);
- 8 (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or  
 misconduct by an opposing party;
- 9 (4) the judgment is void;
- 10 (5) the judgment has been satisfied, released, or discharged; it is based on an earlier  
 judgment that has been reversed or vacated; or applying it prospectively is no  
 longer equitable; or
- 11 (6) any other reason that justifies relief.

12 Fed. R. Civ. P. 60(b). A motion under Rule 60(b) must be filed “within a reasonable  
 13 time—and for reasons (1), (2), and (3) no more than a year after the entry of the  
 14 judgment.” Fed. R. Civ. P. 60(c)(1). To obtain relief more than one year after the entry  
 15 of judgment under the catch-all provision of Rule 60(b)(6), “a party must show  
 16 ‘extraordinary circumstances’ suggesting that the party is faultless in the delay.” *Pioneer*  
 17 *Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 393 (1993).

18 As the Court has previously explained, any request for a court order must be made  
 19 by motion. *See* Fed. R. Civ. P. 7(b)(1). Even if the Court were to construe Plaintiff’s  
 20 letter as a motion seeking relief under Federal Rule of Civil Procedure 60, the letter is  
 21 untimely and fails to establish any valid basis for such relief. Plaintiff filed the letter  
 22 nearly four years after the entry of judgment in the above-captioned case. He states that  
 23 this case was dismissed due to retaliation by his unit team, but he does not describe the  
 24 alleged retaliation or explain how it prevented him from filing a second amended  
 25 complaint in this case.

26 Accordingly,

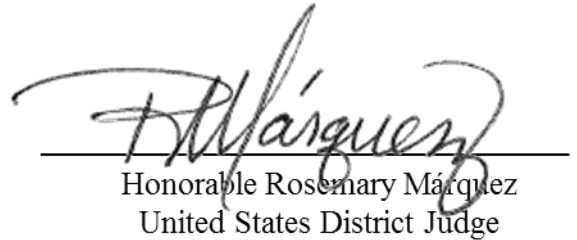
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27 <sup>1</sup> The letter was also filed as a civil rights complaint in *Klipp v. United States*  
 28 *Penitentiary, Lewisburg*, 4:22-cv-00026-RM and, so construed, was dismissed with leave  
 to amend for failure to file on the court-approved form. Plaintiff has until March 20,  
 2022 to file an amended complaint in case number 4:22-cv-00026-RM.

1           **IT IS ORDERED** that Plaintiff's letter (Doc. 20), construed as a Motion to  
2 Reopen under Federal Rule of Civil Procedure 60, is **denied**.

3           Dated this 4th day of March, 2022.

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Honorable Rosemary Márquez  
United States District Judge